

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**JOSHUA VALENTINO ROBINSON,
425686**

PLAINTIFF

v.

CIVIL NO. 1:19cv438-HSO-JCG

WENDY KING

DEFENDANT

ORDER SEVERING HABEAS CLAIM

This matter is before the Court for consideration of pro se Plaintiff Joshua Valentino Robinson's pleadings. Robinson is incarcerated a pretrial detainee at the Harrison County Adult Detention Center, and he challenges his state criminal proceedings in this 42 U.S.C. § 1983 case. Robinson seeks damages and asks that his pending criminal charges be "terminated." Compl. [1] at 4. The Court has considered and liberally construed the pleadings.

To the extent Robinson seeks release, he must pursue such relief through a petition for writ of habeas corpus. *Orellana v. Kyle*, 65 F.3d 29, 31 (5th Cir. 1995). To the extent Robinson seeks damages, the case may be cognizable under 42 U.S.C. § 1983. *Id.* "If such a § 1983 complaint contains both habeas and § 1983 claims, the district court should separate the claims and decide the § 1983 claims." *Id.* Therefore, Robinson's habeas claim seeking release will be severed from this case. Rather than require Robinson to re-file the habeas claims, the Court will direct the Clerk of Court to open a new case and file a copy of the Complaint [1], Motion [2] for leave to proceed *in forma pauperis*, and this Order in the 28 U.S.C. § 2241 habeas

proceeding. Robinson's § 1983 claim for damages will proceed in this civil action.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, pro se Plaintiff Joshua Valentino Robinson's habeas claim seeking release is **SEVERED** from this case. The Clerk of Court shall open a new 28 U.S.C. § 2241 civil action on Plaintiff's habeas claim, and therein file a copy of the Complaint [1], Motion [2] for leave to proceed *in forma pauperis*, and a copy of this Order. The 42 U.S.C. § 1983 claim for damages shall proceed in this civil action.

SO ORDERED AND ADJUDGED, this the 19th day of September, 2019.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE